

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ROBERT WENTWORTH,

Plaintiff,

v.

COLUMBIA COUNTY, ROGER BRANDNER,  
MICHAEL HAVERLEY, MARK SMIT,  
JORDAN HAUTER, DAVID CLARK,  
CORY MILLER, and ROBERT BECKER,

Defendants.

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OPINION and ORDER

19-cv-514-jdp

This case was severed from case number 18-cv-582-jdp, which was filed originally in the Circuit Court for Columbia County and removed to this court. In the original complaint in case number 18-cv-582-jdp, plaintiff Robert Wentworth and several other plaintiffs sued more than 40 defendants associated with numerous local government entities for violations of their rights under the United States Constitution and state law. I severed the original case into seven different cases. In case number 19-cv-514-jdp, Wentworth alleges that his business has been targeted for excessive surveillance and that his customers and employees have been harassed by local law enforcement.

Defendants Robert Becker and Michael Haverley have filed a motion to dismiss count 5 and paragraph 158 of count 9 of the original complaint that was filed in 18-cv-582-jdp, for failure to state a claim upon which relief may be granted. Dkt. 14. But defendants' motion to dismiss is unnecessary, because I already dismissed the claims in those counts in the order severing these cases. Dkt. 1; *Kowald v. Columbia Cty.*, No. 18-CV-582-JDP, 2019 WL 1332583, at \*3 (W.D. Wis. Mar. 25, 2019) (dismissing "plaintiffs' claim that several defendants failed to prevent others from conspiring to violating plaintiffs' rights (Count 5)" and "plaintiffs' claim

that several defendants conspired under 42 U.S.C. § 1985(3) to violate their rights . . . (Count 9)").

Also before the court is defendant Haverley's motion to dismiss Becker under Rule 25(a)(1) of the Federal Rules of Civil Procedure. Dkt. 24. On August 12, 2019, Haverley notified Wentworth and the court that Becker had died, and Haverley provided Wentworth with the identification of the proper party to substitute. Under Rule 25(a)(1), Wentworth had 90 days from August 12 to file a motion for substitution of party. Wentworth never filed a motion for substitution, and his deadline for doing so has now passed. Therefore, I will dismiss Becker from this case.

#### ORDER

IT IS ORDERED that:

1. Defendants Robert Becker and Michael Haverley's motion to dismiss, Dkt. 14, is DENIED as moot.
2. Defendants' motion to dismiss Robert Becker under Fed. R. Civ. P. 25(a)(1), Dkt. 24, is GRANTED.

Entered December 3, 2019.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge